EVIDENCE — "Reasonable evidence" required to prove that the defendant was on probation or parole status at the time of the new offense —
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The standard of proof as to a defendant's probationary or parole status is less stringent than the proof beyond a reasonable doubt required to prove prior felony convictions. In *State v. Herrera*, 176 Ariz. 21, 859 P.2d 131 (1993), the Arizona Supreme Court stated that to prove that the defendant was on probationary status, the State had to present **reasonable evidence** that the defendant was on probation and did not have to show his probationary status beyond a reasonable doubt. In *Herrera,* the State sought to enhance the defendant's murder conviction by alleging that he was on probation in Texas at the time he participated in killing a sheriff's deputy. The defendant had admitted to police that he was on probation at the time of the killing. The State submitted to the jury certified copies of defendant's prior conviction and the arrest warrant that was issued by the Texas court when the defendant violated his Texas probation. *Id.* at 33, 859 P.2d at 143.

On appeal, the defendant claimed the State had failed to prove beyond a reasonable doubt that he was on probation at the time of the homicide. The Court held that the finding required for purposes of enhancing a defendant's sentence under A.R.S. § 13-604.02 (now A.R.S. § 13-708) must be supported by reasonable evidence. In making its finding, the trial court may consider all evidence and information presented at all stages of the trial, as well as all probation and presentence reports. *Id.* at 33, 859 P.2d at 143; *cf. State v. Sowards*, 147 Ariz. 185, 188, 709 P.2d 542, 545 (App. 1984) (case will be remanded if State relies on inferences and not documentation or testimony clearly establishing the defendant's parole or release status.) The *Herrera* Court found

that the State had properly established that Herrera was on probation at the time of the

offense and that therefore his sentence was properly enhanced.